

**Supplemental
Notice of Allowability**

Application No.

10/617,996

Examiner

Victor K. Hwang

Applicant(s)

TURNBULL ET AL.

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Notice of Withdrawal from Issue mailed 12/20/2006.
2. ☒ The allowed claim(s) is/are 1-28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20061221</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

SUPPLEMENTAL EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mark D. Schneider on December 19, 2006.

2. The application has been amended as follows:

In the Claims:

- A) Amend claim 1 as follows:

1. (Currently amended) An exercise system for use within a vehicle, comprising
in combination:

- a vehicle having a passenger compartment, the passenger compartment including a floor and at least a driver's seat, and

- an exercise apparatus including a frame and an exercise device positioned on the frame, the frame mounted to the floor of the passenger compartment proximate a rear of a vehicle seat that is positioned within the passenger compartment and configured to extend across the back of the vehicle seat from one side of the vehicle seat to the other side of the vehicle seat so that an individual positioned in the vehicle seat may use the exercise apparatus while in the vehicle seat.

B) Amend claim 10 as follows:

10. (Currently amended) An exercise system for use within a vehicle,
comprising in combination:

a vehicle having a passenger compartment, the passenger compartment including
a floor and at least a driver's seat, and

an exercise apparatus including a frame and an exercise device positioned on the
frame, the frame being positioned proximate the rear of a vehicle seat that is positioned in
the passenger compartment so that a person positioned in the vehicle seat may use the
exercise device while in the vehicle seat, the frame configured to extend across the back
of the vehicle seat from one side of the vehicle seat to the other side of the vehicle seat
and including a pair of base members mounted to the floor, a support leg extending from
each base member and a crossbeam that is connected to and extends between each
support leg.

3. The following is an examiner's statement of reasons for allowance:

The prior art of record does not disclose the combination of a vehicle as described in the
claims and an exercise apparatus including a frame mounted to the floor of the vehicle proximate
a rear of a vehicle seat within the passenger compartment of the vehicle, the frame configured to
extend across the back of the seat from one side of the seat to the other side of the seat. The
passenger compartment includes a driver's seat which is understood to be a seat upon which the
driver of the vehicle is seated while driving the vehicle. The vehicle seat is understood to
comprise the driver's seat or another seat, but within the same compartment of the vehicle where

the driver's seat is located. The location of the mounting of the frame of the exercise apparatus to the floor proximate the rear of the vehicle seat is understood to be a location on the floor of the vehicle nearer to the rear of the vehicle seat than to the front of the vehicle seat and may be behind the vehicle seat. It is also clear that the exercise apparatus is located so that a user seated in the vehicle seat is positioned to use the exercise apparatus for exercising while remaining in the vehicle seat.

With regard to *Shugg* (US Pat. 6,159,133), *Shugg* discloses throughout the disclosure that the frame 21 of the exercise device is mounted to a seat, in particular a driver's seat, and is nowhere disclosed as being mounted to the floor. The vehicle seats, i.e. seats within the cab of a tractor trailer truck, motor home or similar vehicle, disclosed by *Shugg* to which the exercise device is mounted would typically have for and aft adjustability and mounting of the exercise device to the floor and to the vehicle seat would have prevented the adjustability of the seat, presenting a safety issue.

With regard to *Froelich, Sr. et al.* (US Pat. 5,749,816), *Froelich, Sr. et al.* discloses an exercise device 200 (Fig. 10) that is floor mounted or ceiling mounted within a cab of a tractor trailer or other vehicle. The exercise device is a device for exercising the hand, wrist, arm and associated muscles while seated. The exercise device consists essentially of a base standard 206 mounted to the floor, a resiliently flexible member 204 such as a coil spring mounted to the upper end of the base standard, and a handle 44 mounted to the top of the flexible member. In order for the handle to be assessable to the hands of a user seated in the seat, the exercise device would be mounted proximate the front of the vehicle seat. There would be no motivation to mount the exercise device proximate the rear of the vehicle seat since a user seated in the vehicle

seat would not be able to reach the handle if the exercise device were to be mounted proximate the rear of the vehicle seat.

With regard to *Porter* (US Pat. 6,500,103 B2), *Porter* discloses an exercise system for use with a vehicle comprising in combination a vehicle having a passenger compartment, the passenger compartment including a floor and at least a driver's seat 34. The exercise apparatus includes a frame 47 and an exercise device 12 positioned on the frame 47. The frame 47 is mounted to the floor of the passenger compartment and could be proximate a rear of the vehicle seat 34 so that an individual positioned in the vehicle seat may use the exercise apparatus while in the vehicle seat. The frame 47 includes a pair of base members mounted to the floor, a support leg extending from each base member and a crossbeam that is connected to and extends between each support leg.

Porter does not disclose, nor would it be obvious, to have the frame configured to extend across the back of the vehicle seat from one side of the vehicle seat to the other side of the vehicle seat because the frame 47 is a bracket for securing an end of the elastic exercise device 12 and is essentially a bracket for securing a seat belt assembly (col. 3, lines 32-35). There would be no motivation to provide a seat belt assembly bracket that extends across the back of the seat from one side of the seat to the other side of the seat.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang
December 21, 2006



TAN-UYEN T. HO
Acting SPE 3764

12/26/06